

JACQUELINE DESOUZA, State Bar No.: 133686
DESOUZA LAW OFFICES, a professional corporation
2397 Shattuck Avenue, Suite 202
Berkeley, CA 94704
Telephone: (510) 649-3420
Facsimile: (510) 649-1711
jdesouza@dlawcorp.com

Attorneys for Defendants:
Martin Lettunich, Stefan Matan

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

XS Holding B.V., derivatively on behalf of Xslent
Technologies, LLC and XET Holding Co., LLC,
and separately on its own behalf

Plaintiff,

v.

COOL EARTH SOLAR, INC., a Delaware
corporation; ROB LAMKIN, an individual;
LAWRENCE ASUNCION, an individual;
SOLAR COMPONENTS LLC, a Delaware
limited liability company; NATHAN
SCHULHOF, an individual; M. JAMES
BULLEN, an individual; MARTIN N.
LETTUNICH, an individual; STEFAN MATAN,
an individual; and XSLENT, LLC, a Nevada
limited liability company and ATIRA
TECHNOLOGIES, LLC, a Nevada limited
liability company;

Defendants.

Case No. C08 02282 (RMW)

**NOTICE OF MOTION AND
MOTION TO DISMISS THIS
ACTION FOR LACK OF
DIVERSITY JURISDICTION AND
FAILURE TO NAME
INDISPENSABLE PARTIES
[Fed.R.Civ.P. rule 12(b)(1),(7).]**

Date: July 25, 2008
Time: 9:00 a.m.
The Hon. Ronald M. Whyte

NOTICE IS HEREBY GIVEN:

On July 25, 2008, at 9:00 a.m. before the Hon. Ronald M. Whyte, Defendants Martin Lettunich and Stefan Matan will move this Court for an Order dismissing this action pursuant to Federal Rules of Civil Procedure, rule 12(b)(1) for lack of jurisdiction and pursuant to Federal Rules of Civil Procedure, rule 12(b)(7) and rule 19 for failing to name indispensable parties.

This motion is based upon this notice of motion, the accompanying memorandum of points and authorities, declaration of Jacqueline deSouza, declaration of Martin Lettunich, and request for judicial notice, filed concurrently; upon such additional documents as may be filed on

1 this motion and in this action; and upon such oral evidence and argument as may be introduced at
2 the hearing on this motion.

3
4 Dated: May 22, 2008

DESOUZA LAW OFFICES, PC

5
6 By: _____
7 Jacqueline deSouza
8 Attorneys for Defendants Martin Lettunich
9 and Stefan Matan
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28